



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE UNDER 37 C.F.R. §1.8(a)

I hereby certify that the documents enclosed herein are being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450 on this 21st day of October, 2003.

Michelle Ludwig
Michelle Ludwig

In re application of:)
Howe et al.)
Serial No.: 10/628,804) Examiner: Unknown
Filed: July 28, 2003) Group Art Unit: Unknown
For: Assay for the Detection of Selectable Marker) Conf. No. Unknown
Expression in Plants)

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

TRANSMITTAL LETTER

Transmitted herewith are the following documents in the above-identified application.

- X Transmittal of Information Disclosure Statement within three Months of Filing or Before Mailing of First Office Action (37 C.F.R. §1.97(b))
- X PTO Form 1449
- X Twelve (12) References
- X No fee is believed required for this filing.
- X If an extension or an additional extension of time is required, but is not enclosed, please consider this a conditional petition therefor and charge Deposit Account 13-4125 accordingly.
- X Please charge any deficiencies or credit any overpayment to Deposit Account 13-4125. A duplicate copy of this sheet is attached.

Respectfully submitted,

Thomas P. McBride

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Pra titi ner's Docket N . 38-21(15060)C

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK FFI E

Patent application

of _____
Inventor(s)

for _____
Title of invention

OR

In re application of: Howe et al.

Application No.: 10/ 628,804

Group Art Unit: Unknown

Filed: July 28, 2003

Examiner: Unknown

For: Assay for the Detection of Selectable Marker Expression in Plants

Assistant Commissioner for Patents
Washington, D.C. 20231

**TRANSMITTAL OF INFORMATION DISCLOSURE STATEMENT
WITHIN THREE MONTHS OF FILING OR
BEFORE MAILING OF FIRST OFFICE ACTION (37 C.F.R. § 1.97(b))**

NOTE: "An information disclosure statement shall be considered by the Office if filed by the applicant: (1) within three months of the filing date of a national application; (2) within three months of the date of entry of the national stage as set forth in § 1.491 in an international application; or (3) before the mailing date of a first Office action on the merits, whichever event occurs last." 37 C.F.R. § 1.97(b).

CERTIFICATE OF MAILING/TRANSMISSION (37 C.F.R. § 1.8(a))

I hereby certify that this correspondence is, on the date shown below, being:

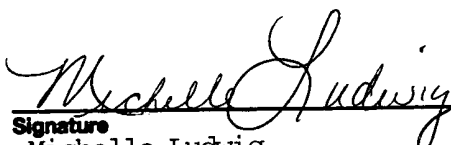
MAILING

☒ deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231.

Date: 10/21/2003

FACSIMILE

☐ transmitted by facsimile to the Patent and Trademark Office.


Signature
Michelle Ludwig

(type or print name of person certifying)

(Transmittal of Information Disclosure Statement Within Three Months of Filing or Before Mailing of First Office Action [8-3]—page 1 of 2)

NOTE: The "filing date of a national application" under 37 C.F.R. § 1.97(b) has two possible meanings. Where the filing is a direct one to the United States Patent & Trademark Office, the filing is defined in 37 C.F.R. § 1.53(b) as "the date on which: (1) A specification containing a description pursuant to § 1.71 and at least one claim pursuant to § 1.75; and (2) any drawing required by § 1.81(a), are filed in the Patent and Trademark Office in the name of the actual inventor or inventors as required by § 1.41." 37 C.F.R. § 1.97(b)(1). On the other hand, an international application that enters the national stage occurs when the applicant has filed the documents and fees required by 35 U.S.C. § 371(c) within the periods set forth in § 1.494 or § 1.495. 35 U.S.C. § 371(c) requires the filing of the following: (1) the basic national fee; (2) a copy of the international application, unless already sent by the International Bureau, and optionally an English translation if filed in another language; and, also optionally (3) amendments under PCT Article 19, with a translation into English if made in another language; (4) an oath or declaration; and (5) a translation into English of any annexes to the international preliminary examination report, if such annexes were made in another language. The optional items must be submitted later, with surcharges. 37 C.F.R. § 1.97(b)(2).

IDENTIFICATION OF TIME OF FILING THE ACCOMPANYING INFORMATION DISCLOSURE STATEMENT

The information disclosure statement submitted herewith is being filed within three months of the filing date of the application or date of entry into the national stage of an international application or before the mailing date of a first Office action on the merits, whichever event occurs last. 37 C.F.R. § 1.97(b).

NOTE: "No certification or fee is due when the filing is made within the above time period. It is advisable to ensure that no Office action has been mailed if the disclosure statement is delayed until after three months from filing."

NOTE: "An information disclosure statement will be considered to have been filed on the day it was received in the Office, or on an earlier date of a mailing if accompanied by a properly executed certificate of mailing under 37 C.F.R. 1.8, or Express Mail certificate under 37 C.F.R. 1.10. An Office action is mailed on the date indicated in the Office action." Notice of April 20, 1992 (1138 O.G. 37-41, 39).

NOTE: "The term 'national application' includes continuing applications (continuations, divisions, continuations-in-part) so three-months will be measured from the actual filing date of an application as opposed [sic] to the effective date of a continuing application." Notice of April 20, 1992 (1138 O.G. 37-41, 39).

NOTE: "An action on the merits means an action which treats the patentability of the claims in an application, as opposed to only formal or procedural requirements. An action on the merits would, for example, contain a rejection or indication of allowability of a claim or claims rather than just a restriction requirements (37 C.F.R. 1.142) or just a requirement for additional fees to have a claim considered (37 C.F.R. 1.16(d)). Thus, if an application was filed on Jan. 1 and the first Office action on the merits was not mailed until six months later on July 1, the examiner would be required to consider any proper information disclosure statement filed prior to July 1." Notice of April 20, 1992 (1138 O.G. 37-41, 39).

WARNING: "A petition for suspension of action to allow applicant time to submit an information disclosure statement will be denied as failing to present good and sufficient reasons, since 37 C.F.R. § 1.97 provides adequate recourse for the timely submission of prior art for consideration by the examiner." Notice of July 6, 1992 (1141 O.G. 63).



SIGNATURE OF PRACTITIONER

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FORM PTO-1449 INFORMATION DISCLOSURE STATEMENT				ATTY. DOCKET NO. 38-21(15060)C		APPLICATION NO. 10/628,804	
				APPLICANT Howe et al.			
				FILING DATE July 28, 2003		GROUP To be assigned	
U.S. PATENT DOCUMENTS							
EXAMINER INITIAL		DOCUMENT NUMBER	DATE	NAME	CLASS	SUB- CLASS	FILING DATE
	AA						
FOREIGN PATENT DOCUMENTS							
EXAMINER INITIAL		DOCUMENT NUMBER	DATE	COUNTRY	CLASS	SUB- CLASS	TRANSLATION
	AB						Yes No
OTHER (Including Author, Title, Date, Pertinent Pages, etc.)							
	AC		Dekeyser et al., Evaluation of Selectable Markers for Rice Transformation, <i>Plant Physiol.</i> 90:217-223 (1989)				
	AD		Falco et al., Transformation and expression of a gene for herbicide resistance in a Brazilian sugarcane, <i>Plant Cell Reports</i> 19:1188-1194 (2000)				
	AE		Galun et al., Tools for Genetic Transformation: 3.3.3. Selectable Genes, <i>Transgenic Plants</i> , Imperial College Press (London), p. 62-64 (1997)				
	AF		Hauptmann et al., Evaluation of Selectable Markers for Obtaining Stable Transformants in the Gramineae, <i>Plant Physiol.</i> 86:602-606 (1988)				
	AG		Henry, Transgenic Cereals, <i>Advances in Cereal Transformation Technologies</i> , American Association of Cereal Chemists (St. Paul, Minnesota), P. 191-193 (2000)				
	AH		Klein et al., Genetic Transformation of Maize Cells by Particle Bombardment, <i>Plant Physiol.</i> 91:440-444 (1989)				
	AI		Nobre et al., Transformation of barley scutellum protoplasts: regeneration of fertile transgenic plants, <i>Plant Cell Reports</i> 19:1000-1005 (2000)				
	AJ		Stevens, Organosilicone Surfactants as Adjuvants for Agrochemicals, <i>Pestic. Sci.</i> 38:103-122 (1993)				
	AK		Weide et al., A simple, nondestructive spraying assay for the detection of an active kanamycin resistance gene in transgenic tomato plants, <i>Theor. Appl. Genet.</i> 78:169-172 (1989)				
	AL		Widholm, Is soybean transformation finally here? <i>TibTech</i> 6:265-266 (1988)				
	AM		Witrzens et al., Comparison of three selectable marker genes for transformation of wheat by microprojectile bombardment, <i>Aust. J. Plant Physiol.</i> 25:39-44 (1998)				
	AN		Zhou et al., Glyphosate-tolerant CP4 and GOX genes as a selectable marker in wheat transformation				
EXAMINER					DATE CONSIDERED		
EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to Applicant.							